

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kenneth Shelton	Team: Squad #4	CCRB Case #: 201810280	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/21/2018 6:05 AM	Location of Incident: [REDACTED]	Precinct: 90	18 Mo. SOL 3/21/2020	EO SOL 11/5/2020	
Date/Time CV Reported Tue, 12/11/2018 11:13 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 12/11/2018 12:20 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. DT2 Lawrence Hotaling	02671	897695	084 PCT
3. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Carlos Posada	13498	952126	090 PCT
2. CPT John Breslin	00000	917051	PROPCLK
3. SGT Joseph Armenio	03840	945477	090 PCT
4. POM John Uske	02554	939622	084 PCT
5. DT3 Patrick Espeut	6061	955904	INT CIS
6. DT3 Vincent Mugno	4941	928823	INT CIS

Officer(s)	Allegation	Investigator Recommendation
A.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.	[REDACTED]
B.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.	[REDACTED]
C. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	[REDACTED]
D. Officers	Abuse: Officers refused to show the search warrant to § 87(2)(b)	[REDACTED]
E. Officers	Abuse: Officers damaged § 87(2)(b)'s and § 87(2)(b)'s property.	[REDACTED]
F.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling threatened to arrest § 87(2)(b)	[REDACTED]

Case Summary

On December 11, 2018, § 87(2)(b) and § 87(2)(b) § 87(2)(b) filed this complaint with the CCRB in-person.

On September 21, 2018, at approximately 6:05 a.m., Detective Lawrence Hotaling of the 84th Precinct, Sergeant Joseph Armenio of the 90th Precinct, and additional officers entered and searched § 87(2)(b) in Brooklyn pursuant to a search warrant (**Allegation A and Allegation B: Abuse of Authority**, § 87(2)(g)). During the entry into the apartment, an unidentified officer allegedly stated to § 87(2)(b) “Get the fuck out of my way” (**Allegation C: Discourtesy**, § 87(2)(g)). During the search of the apartment, § 87(2)(b) allegedly asked officers to see the search warrant multiple times and he was not shown the search warrant (**Allegation D: Abuse of Authority**, § 87(2)(g)). An officer also allegedly damaged § 87(2)(b)s and § 87(2)(b) two iPads, a laptop computer, a liner on a couch and allegedly smashed ceramics located in the rear bedroom (**Allegation E: Abuse of Authority**, § 87(2)(g)). Det. Hotaling allegedly threatened to arrest § 87(2)(b) (**Allegation F: Abuse of Authority**, § 87(2)(g)).

Neither § 87(2)(b) nor § 87(2)(b) were arrested as a result of this incident; however, § 87(2)(b) was issued a summons for unlawful possession of marijuana (BR 06).

There is video footage in relation to this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.

It is undisputed that officers entered § 87(2)(b) in Brooklyn by damaging the front door and pointing their guns at § 87(2)(b) and § 87(2)(b). Officers then searched the apartment pursuant to search warrant § 87(2)(b) (BR 07).

§ 87(2)(g)

New York Criminal Procedure § 690.30 states that a search warrant must be executed within ten days of its issuance and must be executed between the hours of 6 a.m. and 9 p.m., unless the warrant expressly authorizes execution thereof at any time of day or night (BR 08).

§ 87(2)(g)

Allegation (C) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) (BR 02) said that prior to the officers entering the apartment, he cracked open the door with the latch still on and saw three to four officers wearing body armor and helmets. § 87(2)(b) asked them what was going on and the officers told him that they had a search warrant. § 87(2)(b) offered to undo the latch and open the door for them, but the officer closest to the door told him, “Get the fuck out of my way,” because they were going to break down the door.

§ 87(2)(b) (BR 03) said that, prior to the officers entering the apartment, she saw § 87(2)(b) standing at the front door, with the door cracked open, speaking to some individuals

outside. She heard someone mention a search warrant. The individuals told them to stand back because they were going to break the door in, which they did so immediately thereafter.

Both Det. Hotaling and Sgt. Armenio denied using any profanity during the incident and did not hear profanity being used by an officer speaking to § 87(2)(b).

NYPD Patrol Guide Procedure 203-09 (BR 09) requires all uniformed members of service to be courteous, respectful, and professional when interacting with the public. However, the NYPD's disciplinary decisions "have consistently concluded that when a police officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct," NYPD Disciplinary Case No. 79627.04 (2004) (BR 10).

§ 87(2)(b), § 87(2)(g)

Allegation (D) Abuse of Authority: Officers refused to show the search warrant to § 87(2)(b)

§ 87(2)(b) stated that after the officers entered the apartment and after he was handcuffed, he and § 87(2)(b) asked all of the officers to see a search warrant at least four or five times. They were never shown the search warrant.

§ 87(2)(b) said that she did not see a search warrant and did not request to see it.

Det. Hotaling (BR 04) had no recollection of § 87(2)(b) or § 87(2)(b) asking to see a search warrant. Det. Hotaling noted that he always carries a copy of the search warrant when he executes one and always shows it when asked to do so. While Det. Hotaling searched the apartment, Sgt. Armenio remained with § 87(2)(b) and § 87(2)(b) in the living room and would have been responsible for showing the search warrant. Det. Hotaling was never made aware that § 87(2)(b) or § 87(2)(b) asked to see a search warrant and he never heard them complain of not being shown the search warrant.

§ 87(2)(g)

§ 87(2)(b) Sgt. Armenio was the search supervisor, which consisted of him supervising the officers' search of the apartment. Sgt. Armenio denied hearing § 87(2)(b) request to see the search warrant and did not recall where he or § 87(2)(b) and § 87(2)(b) were located within the apartment. Sgt. Armenio did not have a copy of the search warrant and stated that Det. Hotaling would have been responsible for showing a copy of the search warrant if it was requested.

According to NYPD Patrol Guide Procedure 221-17 (BR 11), the member of service executing a search warrant should, when able to do so safely, show a copy of the search warrant upon request. PG 221-17 continues that in New York State, members of the service do not have a legal obligation to show an occupant of a premise a copy of a search warrant unless requested to do so.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (E) Abuse of Authority: Officers damaged § 87(2)(b)'s and § 87(2)(b) Vasquez's property.

§ 87(2)(b) and § 87(2)(b) alleged that after the officers finished conducting their search of the apartment, they inspected the apartment and discovered damaged property, including two iPads, a laptop computer, and a liner on a couch. § 87(2)(b) took photos of the damages on the day of the incident and provided them to the investigation (BR 12).

§ 87(2)(b) said that, in addition to the electronics and the couch liner, there was damage to some ceramics in the rear bedroom. Neither § 87(2)(b) nor § 87(2)(b) saw which of the officers caused the alleged property damage.

Det. Hotaling did not recall what other rooms he searched besides the bedroom and stated that he was the only officer to search the bedroom. He did not recall seeing any electronics in the bedroom and denied damaging any that were underneath the bed. When shown photographs of the alleged damage to § 87(2)(b)'s electronics, Det. Hotaling had no recollection of seeing these electronics and denied damaging them, or seeing any other officer do so. Det. Hotaling denied damaging ceramics and denied witnessing another officer doing so. Det. Hotaling also denied damaging the fabric on the couch.

§ 87(2)(g) Sgt. Armenio did not recall where officers searched within the apartment. When shown the photos of the alleged property damage to § 87(2)(b)'s electronics, Sgt. Armenio denied doing this himself, witnessing another officer do this, or being made aware that this occurred.

§ 87(2)(g)

Allegation (F) Abuse of Authority: Detective Lawrence Hotaling threatened to arrest § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) said that Det. Hotaling escorted him into the bathroom to question him about the whereabouts of weapons and drugs within the apartment several times throughout the search of the apartment. At one point, Det. Hotaling told § 87(2)(b) that if he found anything, he would "take" his wife.

§ 87(2)(b) said that at one point during the search, § 87(2)(b) used the bathroom and officers asked him what he had flushed down the toilet. Det. Hotaling then commented that § 87(2)(b) would be arrested because she was the apartment's leaseholder.

Det. Hotaling said that he did not speak with § 87(2)(b) and § 87(2)(b). He did not recall questioning either of them about weapons in the apartment. Det. Hotaling denied threatening to arrest § 87(2)(b) or § 87(2)(b). However,

Sgt. Armenio's statement was consistent with Det. Hotaling's statement. Sgt. Armenio denied witnessing Det. Hotaling threaten to arrest § 87(2)(b). he was not made aware of this happening, and he did not hear § 87(2)(b) complain of this.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This the first complaint to which § 87(2)(b) and § 87(2)(b) § 87(2)(b) have been a party (BR 01).
- Det. Hotaling has been a member of service for 28 years and has been a subject in eight CCRB cases and 13 allegations, of which one was substantiated.
 - 09200443 involved a substantiated allegation of a discourtesy. The Board recommended Command Discipline. It is unknown whether the NYPD issued a penalty.
- Det. Hotaling's CCRB history does not reflect any patterns pertinent to this investigation.

Mediation, Civil and Criminal Histories

- Both § 87(2)(b) and § 87(2)(b) § 87(2)(b) declined mediation.
- § 87(2)(b)
- § 87(2)(b)
- A Notice of Claim request was sent to the New York City Office of the Comptroller on April 18, 2019 and the results will be added to the case file upon receipt.

Squad No.: _____ 4 _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date